

## List of EPA Actions Subject to Section 6 National Environmental Policy Act (NEPA) Emergency Regulations and Emergency Procedures<sup>1</sup>

EPA Office	Applicability	Title of Action	Brief Summary of Action	September Status <sup>2</sup>
Office of Water	EO Section 6	<b>Water Infrastructure Finance and Innovation Act (WIFIA) Program</b>	<p>All WIFIA projects thus far have been eligible for either a categorical exclusion (CATEX) or streamlined review through the programmatic environmental assessment (PEA).</p> <p>Recently closed projects are available at <a href="https://www.epa.gov/wifia/wifia-closed-loans">https://www.epa.gov/wifia/wifia-closed-loans</a>.</p> <p>All WIFIA selected projects available at <a href="https://www.epa.gov/wifia/wifia-selected-projects">https://www.epa.gov/wifia/wifia-selected-projects</a>.</p>	<p>Since the beginning of March 2020, WIFIA has announced thirteen loans and updated three existing loans with lower interest rates. These recent efforts by EPA's WIFIA program will save ratepayers over \$1 billion compared to typical market financing. Since the first WIFIA loan closed in April 2018, EPA has now issued 31 WIFIA loans totaling \$6 billion in credit assistance to help finance \$13 billion for water infrastructure projects while creating 28,000 jobs.</p>

<sup>1</sup> Most EPA actions related to infrastructure investments are exempt from NEPA under the following statutes:

- Section 511(c) of the Clean Water Act exempts most EPA actions under the Clean Water Act from the requirements of NEPA.
- Section 7(c) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 793(c)(1)) exempts all EPA actions under the Clean Air Act from the requirements of NEPA.

Other related EPA procedures or environmental reviews under enabling legislation are functionally equivalent to the NEPA process and thus exempt from the procedural requirements of NEPA.

<sup>2</sup> Most recent updates will appear in red.

## List of EPA Actions Subject to Section 8 Emergency Regulations and Nationwide Permits Under the Clean Water Act and Other Statutes Administered by the Army Corps of Engineers

EPA Office	Title of Action	Brief Summary of Action	Status
Office of Water	<b>Section 404 Program and MPRSA</b>	<p>EPA may have a coordination or concurrence role under Clean Water Act (CWA) Section 404 and Rivers and Harbors Act (RHA) Section 10, and the Agency could have a coordination or concurrence role under the Marine Protection, Research, and Sanctuaries Act (MPRSA) Section 103.</p> <p>EPA stands ready to expeditiously work with U.S. Army Corps of Engineers in processing and reporting on all EO requests that fall under the purview of the CWA Section 404, RHA Section 10, and MPRSA Section 103. Additionally, the Agency will engage in early coordination efforts with USACE to ensure that we can provide the needed support.</p>	No new update to report.

## List of EPA Actions Subject to Section 9 Other Authorities Providing for Emergency or Expedited Treatment of Infrastructure Improvements and Other Activities

EPA Office	Title of Action	Brief Summary of Action	Status
Office of Land and Emergency Management (OLEM)	<b>America Recycles</b>	<p>The America Recycles initiative is a collaborative effort among EPA, states, and public and private-sector stakeholders to advance sustainable materials management by strengthening the U.S. recycling system. The America Recycles work recognizes the need to stimulate investments in infrastructure for recyclables to foster a more resilient solid waste system capable of withstanding disruptions – such as trade policies and evolving waste streams. U.S. solid waste management infrastructure needs to be enhanced to maintain pace with rapidly evolving waste streams, and aging infrastructure is leading to inefficient use of domestic resources.</p> <p>EPA posted a Federal Register Notice seeking comments (comment period was April 7, 2020 to July 6, 2020) on the existing Comprehensive Procurement Guidelines (CPG) designations and procurement recommendations. The CPGs establish a buy-recycled program for the federal government. Authorized by the Resource Conservation and Recovery Act (RCRA), Section 6002, EPA designates recycled-content items that federal agencies must purchase. The CPGs harness federal purchasing power to stimulate the demand for recovered materials.</p>	EPA is currently evaluating comments received on the CPGs.
Office of Land and Emergency Management (OLEM)	<b>Anaerobic Digestion (AD) in Communities</b>	<p>The Supporting Anaerobic Digestion (AD) in Communities funding opportunity for up to \$3 million is now posted on grants.gov (EPA-OLEM-ORCR-20-02) to accelerate the development of new or enhance/increase existing anaerobic digestion capacity and infrastructure in the United States.</p> <p>The goals of this funding opportunity are to:</p> <ol style="list-style-type: none"> <li>1) increase use of anaerobic digestion to manage food waste, and</li> <li>2) support the development of new AD infrastructure in the U.S.</li> </ol>	Selections were announced on October 1, 2020. Funding will be awarded in fiscal year 2021.

EPA Office	Title of Action	Brief Summary of Action	Status
Office of Air and Radiation	New Source Review Error Corrections Rule	EPA is correcting inadvertent errors and update references in the New Source Review (NSR) rules. The NSR regulations in 40 CFR parts 49, 51 and 52 have undergone restructuring and revisions during its history, resulting in a number of inadvertent errors during that time. In addition, the 1990 Clean Air Act amendments created programs (e.g., title V and Part 63) and some other revisions that are not reflected in the current NSR regulations. This rule corrects these errors and updates within the NSR regulations, thereby, improving clarity and reducing unintended confusion. Entities potentially affected directly by this action include sources in all industry categories and also include federal, state, and local air pollution control agencies (air agencies) responsible for permitting sources pursuant to the NSR program.	<p>The proposal was published in the FR on November 22, 2019 and the comment period closed on January 21, 2020. The final rule is anticipated to be final in November 2020.</p> <p>No new update to report.</p>
Office of Air and Radiation	Plantwide Applicability Limitation (PAL) Final Guidance	EPA promulgated the PAL regulations as part of the 2002 New Source Review (NSR) Reform Rule. 67 FR 80186 (December 31, 2002). A PAL is an optional flexible permitting mechanism available to major stationary sources that involves the establishment of a plantwide emissions limit, in tons per year, for a regulated NSR pollutant. A PAL represents a simplified NSR applicability approach that provides a source with the ability to manage physical and operational changes, and the impacts of those changes on facility-wide emissions, without triggering major NSR or the need to conduct project-by-project major NSR applicability analyses. This memorandum provides guidance related to specific issues raised by stakeholders regarding the PAL regulations, including PAL permit reopening, PAL expiration, PAL renewal, PAL termination, and monitoring requirements for PALs. This	Draft guidance issued February 13, 2020, for public comment. Final guidance was cleared by OMB on July 24, 2020. Final guidance was issued on August 4, 2020.

		<p>memorandum also contains a discussion of the general advantages of PALs, other considerations relevant to potential PAL permit applicants, and the results of a PAL implementation survey conducted by the Office of Air Quality Planning and Standards. Entities potentially affected directly by this action include major stationary sources. Approximately 70 PAL permits have been issued to sources in a wide range of industry categories since the 2003 effective date of the NSR Reform Rule and subsequent state adoption of conforming regulations. However, EPA has become aware, through stakeholder input, that certain elements of the PAL regulations have been perceived as unduly onerous, or as sources of uncertainty and potential risk, and that those concerns have hindered more widespread PAL adoption. Wider application of PALs is expected to reduce permitting and compliance costs.</p>	No new update to report.
Office of Air and Radiation	PSD and NSR: Project Emissions Accounting	<p>Under the New Source Review (NSR) pre-construction permitting program, sources undergoing modifications need to determine whether their modification is considered a major modification and thus subject to the major NSR pre-construction permitting program. A source owner determines if its source is undergoing a major modification under NSR using a two-step applicability test. The first step is to determine if there is a "significant emission increase" of a regulated NSR pollutant from the proposed modification (Step 1) and the second step is to determine if there is a 'significant net emission increase' of that pollutant (Step 2). EPA's proposed revisions clarify that emissions increases and decreases from a modification can be considered as part of Step 1 of the NSR major modification applicability test. The final rule is intended to provide clarity for potential permit applicants. It may also offer relief (i.e., lesser permit requirements) for some applicants. Entities potentially affected directly by this action include sources in all industry categories. Entities potentially affected by this action also include federal, state, and local air pollution control agencies (air agencies) responsible for permitting sources pursuant to the NSR program.</p>	Final rule went to OMB on July 23, 2020 and the final rule is anticipated to be issued in October 2020.

Office of Air and Radiation	Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act	This final rule will allow major sources of hazardous air pollutants (HAP) to reclassify as area sources under section 112 of the Clean Air Act at any time, provided they reduce their actual and potential HAP emissions to below major source thresholds. This action finalizes amendments to the General Provisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) and amendments to individual NESHAP subparts to account for the regulatory provisions we are finalizing through this rule. The final amendments to the General Provisions provide that any major source can reclassify to area source status at any time by reducing its potential to emit (PTE) HAP to below the major source thresholds of 10 tons per year (tpy) of any single HAP and 25 tpy of any combination of HAP. EPA estimates that the final action may result in substantial annual cost savings of \$90.6 million (2017\$) based on illustrative estimates of its potential reduction in administrative burden if sources reclassify to area source status.	Final rule was sent to OMB on July 16, 2020, and OMB completed their review on September 21, 2020. Signed October 1, 2020.
Office of Air and Radiation	Storage Tank Vessels	EPA is proposing amendments to the 1984 New Source Performance Standards (NSPS) Volatile Organic Liquid Storage Vessels to allow for in-service inspection of floating roofs, as is currently allowed in other rules. This will allow for inspections that do not require tanks to be taken out of service and reduce storage capacity. Cost savings and emission reductions from these actions are anticipated because storage tanks will no longer need to be emptied and degassed.	This is not OMB significant and will be signed in early October

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Office of Grants and Debarment (OGD)	<b>Uniform Grant Guidance, 2 CFR Part 200, to expedite infrastructure or environmental protection projects funded by EPA</b>	EPA's Office of Grants and Debarment (OGD) has authority under 2 CFR 1500.3(a) to grant case by case exceptions to requirements in the Uniform Grant Guidance, 2 CFR Part 200, to expedite infrastructure or environmental protection projects funded by EPA financial assistance at the request of recipients or program offices. Additionally, 2 CFR 1500.3(b) provides EPA with unique authority to grant both case by case and class exceptions to EPA program specific regulations, such as those governing the Clean Water and Drinking Water State Revolving Funds (40 CFR Part 35, Subpart K and 40 CFR Part 35, Subpart L respectively) and cooperative agreements for Superfund cleanups (40 CFR Part 35, Subpart O). These exceptions may be granted to expedite construction of wastewater or drinking water infrastructure or remediation of contaminated sites. EPA regulations at 2 CFR 1500.8 further allow recipients to obtain funding for activities carried out more than 90 days prior to award of the financial assistance agreement with EPA approval if certain requirements are met. Allowing pre-award costs may expedite initiation of EPA funded projects which generate economic benefits for communities impacted by COVID-19. EPA is prepared to deploy these authorities on a priority basis to support economic recovery from the COVID-19 public health emergency if requested to do so by recipients of EPA financial assistance or program offices.	No new update to report.
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